8 Concessionary Deductions – MPF, HLI , ERCE & Approved Charitable Donations

The following concessionary deductions are allowable under Salaries Tax and Personal Assessment :

(a) Contributions to Recognized Retirement Schemes

- As from 1 December 2000, employees and self-employed persons may claim tax deductions for up to $12,000 per year in respect of mandatory contributions made by them during the year to
  - a Mandatory Provident Fund Scheme (MPFS), and/or
  - a Recognized Occupational Retirement Scheme (RORS).

- If the individual has an employment and owns an unincorporated business simultaneously, he may claim deductions in his capacity as employee and also in his capacity as a sole-proprietor/partner.

  However, the maximum amount allowable to any individual is $12,000.

  Any sum already claimed by him and allowed to him as a deduction under Salaries Tax will NOT be allowed again for deduction under Profits Tax.

  Example 1

  If $8,400 was allowed under Salaries Tax, he may claim the balance of $3,600 (i.e. $12,000 - $8,400) as deduction under Profits Tax.

  Example 2

  If $12,000 was allowed under Salaries Tax, no deduction would be allowable under Profits Tax.

- For more information about the deductibility of contributions for employees and self-employed persons, please click HERE to read IRD leaflet PAM 38 (e) "Deductibility of contributions for employees and self-employed persons (Mandatory Provident Fund Scheme or Recognized Occupational Retirement Scheme)".

- For frequently asked questions and answers on Mandatory Provident Fund, please click HERE.

(b) Home Loan Interest (HLI) Deduction

- As from year of assessment 1998/99 onwards, you can claim to deduct HLI from your assessable income.

- You may get deductions of HLI paid on the mortgage of your home for 7 years of assessment.

- The property must be used as taxpayer's place of residence. It must be a separate rateable unit under the Rating Ordinance and **situated in Hong Kong.** The interest paid is on a mortgage loan granted to finance the purchase of the property. For details of qualifying conditions, please click HERE.

- The amount of HLI deduction allowable will be the amount of interest actually paid subject to the maximum amount of deduction.

- Interest incurred in one year of assessment but not paid until the next year is only deductible in the year of payment. Click HERE for illustration by way of example.

- The maximum amount of deduction for each year is $100,000; but for the 2 years of assessment 2001/02 and 2002/03, the maximum amount is $150,000 for each year.

- A sole owner of the property is entitled to the full amount of deduction, whereas the joint owners will have their deductible amount divided in equal shares, or in case of owners in common, in proportion to their respective shares of ownership. Click HERE for illustration by way of examples.

- If you are NOT the owner of your residence, even if you pay all the mortgage repayments including the interest, you cannot claim HLI deduction for your residence. Click HERE for illustration by way of examples.

- How to Claim HLI Deduction and any Proof Required

  - You should claim HLI deduction by completing Part 7.1, and 7.3 of your B.I.R 60 (you should also complete Part 7.4 if the interest payments involving re-mortgaged loan).

  - You are not required to attach any proof of the interest paid when you submit your tax return. However, you must keep and maintain relevant documents (such as: evidence of the interest paid on the relevant first/second/re-mortgage) so that they can be produced for verification, when required by the Assessor.

- Nomination of Spouse to claim Deduction

  - If you are married and pay salaries tax but your spouse has no income chargeable to tax, your spouse may nominate you to get his/her HLI entitlement. Nomination must be made year by year and it requires the nominating spouse to sign on the nominee's tax return to signify his/her agreement to the nomination. If deduction is allowed pursuant to the nomination, the spouse who has made the nomination is regarded as having been allowed the deduction for that year of assessment.

- ✧ HLI deduction is only allowable under Salaries Tax or Personal Assessment. So, if your spouse does not have any salary income but other chargeable income (e.g. rental income or business income), you and your spouse have to elect Personal Assessment in order to claim his/her HLI entitlement. Click HERE for illustration by way of example.

- ✧ Nomination is restricted to spouse. A taxpayer, for example, cannot nominate his son to get his entitlement.

➢ Revocation of HLI Deduction Claim

- ✧ Following each HLI deduction allowed, the Commissioner will notify you of the number of years for which deduction has been allowed and your remaining entitlement.

- ✧ You may withdraw your claim for HLI deduction. The revocation must be made in writing within 6 months after the date of notification by the Commissioner that the deduction has been allowed.

➢ You may click HERE to refer to the Departmental Interpretation and Practice Notes No. 35 for more details of HLI deduction.

➢ For frequently asked questions and answers on deduction for home loan interest, please click HERE.

(c) Elderly Residential Care Expenses (ERCE)

➢ Eligibility for Deduction

- ✧ From year of assessment 1998/99, you may claim deduction for ERCE paid by you or your spouse to a residential care home situated in Hong Kong in respect of your or your spouse's parent/grandparent.

- ✧ The dependant must have been at least 60 years of age; or if under the age of 60, was eligible to claim an allowance under the Government's Disability Allowance Scheme. For details of eligibility for deduction, please click HERE.

- ➢ Amount of Deduction

  - ✧ The amount of ERCE deduction allowable is the amount of expenses **actually paid** by you or your spouse (net of any reimbursement by any person or organization) in the year of assessment to a residential care home in respect of the residential care received by your parent/grandparent, subject to a maximum of $60,000.

  - ✧ The amount of ERCE deduction covers only the cost of care provided to the parent/grandparent who is resident in a residential care home (e.g. accommodation, food, nursing care and sundry expenses).

  - ✧ ERCE deduction **does not include non-residential care expenses** [e.g. medical expenses paid to doctor and hospital, private expenses paid by the residential care home on their resident's behalf and then recovered from any person (such as personal expenditure needs)]

- ➢ How to Claim ERCE Deduction and Any Proof Required

  - ✧ You should claim ERCE deduction by completing item (1) to (4) and (6) of Part 8.4 of your B.I.R 60 (you should also complete item (7) if you wish to claim disabled dependant allowance in respect of same parent/grandparent).

  - ✧ You are not required to attach the receipts when you submit your tax return. However, you must keep and maintain relevant documents (e.g. receipts issued by the residential care home) so that they can be produced for verification, when required by the Assessor.

- Matters of Concern

  - If you claim both the Dependent Parent/Grandparent Allowance (DPA/DGA) and deduction of ERCE in respect of the same dependant, only the deduction for ERCE will be allowed.

    [Example: you are not paying tax at standard rate and you had given $15,000 to your father in 2004/05 for paying the elderly residential care expenses, you may choose to claim DPA (DPA = $30,000 for 2004/05) instead of ERCE deduction]

  - Only **one** taxpayer can be granted the DPA/DGA or the ERCE deduction in respect of the same dependant for the same year of assessment.

- You may click HERE to refer to the Departmental Interpretation and Practice Notes No. 36 for more details of ERCE deduction.

- For frequently asked questions and answers on deduction for ERCE, please click HERE.

(d) Approved Charitable Donations

- Allowable Deductions are:

  - donations made in money.

  - donations made to charitable institutions; or trusts exempt from tax under section 88 of the Inland Revenue Ordinance; or the Government for charitable purposes.

- Amount of Deductions

  - The minimum amount of deduction claimed should aggregate to $100 or more.

- The **maximum amount of deductions is 25%** of the income after allowable expenses for year of assessment 2003/04 onwards. (For year of assessment prior to 2003/04, the limit is 10% instead).

- “Donation” means a gift, there should be no advantage of a material character to be received by the donor by way of return.

  - Examples of payment not treated as “donations” and do not qualified for deduction because they are made in return for some direct advantage:

    - payments for purchase of lottery tickets or raffle tickets
    - payments for admission tickets for film shows or charity shows
    - payments for a grave space
    - payments made for services such as saying prayers, reservation of a space for ancestral worship
    - purchase of goods in a bazaar

- How to Claim Deduction for Approved Charitable Donations and Any Proof Required

  - You should claim deduction for approved charitable donations by stating the amount of donations made in the year of assessment :

    - in Box 32 [i.e. item (3) of Part 4.3] of your tax return (B.I.R. 60) if you were a salaries earner;
    - in Box 41 of Part 5 of your tax return if you earned profits from your sole-proprietorship business and do not elect personal assessment.

- in Box 54 of Part 6 of your tax return if you were a property income earner and you must have elected personal assessment.

✧ Any Proof Required

- You are **not** required to attach the donations receipts when you submit your tax return but you must keep the donations receipts.

- You are required to produce the donation receipts for verification, when required by the Assessor.

- The supporting documents and records of donations shall be retained for a period of 6 years after expiration of the relevant year of assessment.

➢ Matters of Concern

✧ You may click HERE for the list of charities exempt from tax under section 88 of the Inland Revenue Ordinance.

✧ Same donation **cannot be allowed** to more than one person.

✧ A married taxpayer not living apart from his/her spouse may claim deductions for approved charitable donations made by his/her spouse. Click HERE for illustration by way of examples.

✧ If you have more than one source of income, the unused portion of approved charitable donations under a tax type (e.g. profits tax) may be deductible under personal assessment. Click HERE for illustration by way of examples.

Interest must be Paid in the Year of Assessment

Example :

Mr. A purchased a dwelling with finance provided by a bank mortgage on 1 December 2004. Each of his monthly loan repayments, made on 2 January 2005, 1 February 2005, 1 March 2005 and 1 April 2005 respectively, included an interest component of $10,000. The interest is deductible in the following years of assessment –

Date Interest Paid	Year of Assessment Deductible
2 January 2005	2004/05
1 February 2005	2004/05
1 March 2005	2004/05
1 April 2005	2005/06

Even though the interest payment made on 1 April 2005 is related to interest incurred during the period from 1 March 2005 to 31 March 2005, it is only deductible in the tax year when payment was made.

Sole or Part-ownership

Example :

Mortgage interest paid on the property in the year 2004/05 was $160,000.

Ownership	*Interest paid/share of interest paid*	*Maximum amount allowable*
Sole owner	$160,000	$100,000
Jointly owned by Mr A and Ms B		
Mr A	$80,000	$50,000
Ms B	$80,000	$50,000
	$160,000	$100,000
Co-owned by Mr E (share 1/4) and Ms F (share 3/4)		
Mr E	$40,000	$25,000
Ms F	$120,000	$75,000
	$160,000	$100,000

HLI deduction will be computed according to the legal ownership

Example 1 :

Both the husband and the wife have employment income. They own their dwelling jointly and the husband pays all the interest on the mortgage loan for the dwelling. The shifting of the financial burden of the wife's share of interest to the husband will be regarded as a private arrangement with no tax effect. HLI deduction will still be computed according to the respective legal ownership. Therefore, the husband and the wife should each claim half of the interest in their respective tax returns.

Example 2 :

If a property is jointly owned by the father, mother and daughter but only the daughter has income, only 1/3 of the interest paid can be allowed to the daughter as HLI deduction if claimed. Furthermore, the father and mother cannot nominate their daughter to get their entitlement as nomination is only applicable to spouse.

Example 3 :

If a couple are still married but living apart temporarily and the wife lives alone in the property which is jointly owned by the couple and she pays all the interest, the wife can only claim 1/2 of the interest paid in her tax return. Claim for the full interest paid should only be made at such time when she becomes the sole legal owner of the property. The husband may, however, claim 1/2 of the interest paid up to the day he moved out from the property.

A married couple not living apart may claim deductions for approved charitable donations made by his/her spouse

Example (for Year of Assessment 2004/05)

	Mr A	Mrs. A
	$	$
Salaries income	350,000	300,000
Total approved charitable donations	100,000	20,000
Calculation of net chargeable income		
Mr. A		
Income	350,000	
Less : Outgoings and expenses	2,000	
	348,000	
Less : Approved Charitable Donations (Note 1)	87,000	
	261,000	
Less : Basic Allowance	100,000	
Net chargeable income	161,000	
Mrs. A		
Income		300,000
Less : Outgoings and expenses		1,000
		299,000
Less : Approved Charitable Donations (Note 2)		33,000
		266,000
Less : Basic Allowance		100,000
Net chargeable income		166,000

Note (1) As the maximum amount of approved charitable donations can be allowed to Mr. A is restricted to $87,000 ($348,000 x 25%), Mr. A may claim $87,000 in his tax return and ask Mrs. A to claim the unused balance.

(2) Mrs. A may claim the unused portion of approved charitable donations made by Mr. A, i.e. $13,000 ($100,000 - $87,000), in addition to the donation of $20,000 made by her in her tax return.

<u>When a taxpayer has more than one source of income, the unused portion of approved charitable donations under a tax type may be deductible under Personal Assessment</u>

Example :

<u>Mr. C</u>

	$	$	$
Salaries income before deduction of approved charitable donations			400,000
Business profits before deduction of approved charitable donations			200,000
Property income after deduction of statutory allowance under property tax			100,000
Total approved charitable donations			200,000

Calculation of Net Chargeable Income under Personal Assessment

Salaries income		400,000
Business profits	200,000	
<u>Less</u> : Donations already claimed under Profits Tax	<u>50,000</u>	
Assessable profits		150,000
Property income		<u>100,000</u>
Total income		650,000
<u>Less</u> : Donations (Note)		<u>125,000</u>
		525,000
<u>Less</u> : Basic Allowance		<u>100,000</u>
Net chargeable income		<u>425,000</u>

Note :

Total income before deduction of approved charitable donations
= $400,000 + $200,000 + $100,000
= $700,000

Maximum amount of deductible approved charitable donations
= $700,000 x 25%
= <u>$175,000</u>

Deductible approved charitable donations under Personal Assessment
= $175,000 - $50,000
= $125,000

Spouse's HLI claim may result in a reduction of your tax liability under personal assessment

Example

During 2004/05, Mr. A derived assessable income of $380,000 from his employment. He is married and Mrs. A had an assessable profit of $20,000 from her sole proprietorship business and rental income of $25,000 from letting her sole owned property.

Mr. and Mrs. A jointly owned a property in which they resided. They paid home loan and interest of $100,000 in the year.

The couple elect joint assessment under Salaries Tax and personal assessment.

Their tax position is :

	Mr. A	Mrs. A	Total
	$	$	$
Salaries income of Mr. A	380,000		380,000
Assessable profits of Mrs. A		20,000	20,000
Net assessable value of property let ($25,000 x 80%)		20,000	20,000
	380,000	40,000	420,000
Less : Home Loan Interest	50,000	(*)50,000	100,000
	330,000		320,000
Less : Married Person's Allowance	200,000		200,000
Net Chargeable Income	130,000		120,000
Salaries Tax on			
first $30,000 @ 2%	600		
next $30,000 @ 8%	2,400		
next $30,000 @ 14%	4,200		
next $40,000 @ 20%	8,000		
Salaries Tax Payable (at progressive rate)	15,200		
Profits Tax Payable at standard rate		3,200	
Property Tax Payable at standard rate		3,200	

Tax under Personal Assessment

first	$30,000	@	2%	600
next	$30,000	@	8%	2,400
next	$30,000	@	14%	4,200
next	$30,000	@	20%	6,000

Tax Payable under Personal Assessment (at progressive rate) 13,200

* Mrs. A's home loan interest can only be deducted by electing personal assessment.

It can be seen from the example above that Personal Assessment will result in tax savings amounting to $8,400 ($15,200 + $3,200 + $3,200 - $13,200).